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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/749,988

12/31/2003

Duane L. McDonald

17,858.3

9975

23556

7590

05/14/2007

KIMBERLY-CLARK WORLDWIDE, INC.

401 NORTH LAKE STREET

NEENAH, WI 54956

EXAMINER

BUI, LUAN KIM

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

05/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/749,988

Applicant(s)

MCDONALD, DUANE L.

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 2-8, 15, 16, 20 and 22-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 9-14, 17-19, 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Response to Arguments

Applicant's arguments with respect to the rejection of claim 1 have been considered and persuasive. The Examiner is hereby withdrawn the Office Actions mailed on 7/27/2006 and 10/25/2006 in favor of reopening prosecution.

After further reconsideration of the election filed on 6/13/2006, Applicant's indication that claims 1-5, 7-14 and 16-26 read on the elected embodiment of Figures 11B is noted. However, since claims 2 and 22 recite "the first piece of material and the second piece of material have different rigidities", claims 3 and 23 recite "the first piece of material is more rigid than the second piece of material", claims 4 and 24 recite "the second piece of material is more rigid than the first piece of material", claims 8 and 25 recite "the package is vacuum packed", claim 16 recites "the absorbent article is vacuum packaged" and claim 20 recites "the upper portion of the opening element and the lower portion of the opening element have different rigidities" and since the elected embodiment is a blister package having a living hinge which is clearly has no such features as indicating above. Therefore, claims 2-6, 8, 16, 20 and 22-26 are deemed not to read on the elected embodiment. Furthermore, claim 21 recites "a portion of the opening tab extends beyond at least one lateral edge of the seal, and a portion of the opening tab extends beyond at least one longitudinal edge of the seal" is deemed not to read on the elected embodiment. However, claim 21 will be examined in this Office Action, but the Applicant is required to provide to support for claim 21 with respect to the elected embodiment of Figure 11B in response to this Office Action. Without response from the Applicant, claim 21 will be withdrawn in the next Office Action.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Trewella (3,652,006). Trewella discloses a package (10) enclosing a single disposable absorbent article (30) comprising a first piece of material (16) and a second piece of material (18) being operatively associated with the first piece of material to enclose the absorbent article. The operative association defining a seal (28) and at least a portion of the first piece of material and at least a portion of the second piece of material (12, 14, 22) extend beyond the seal to define an opening element. As to claim 21, Trewella discloses the seal spaced inward from the edges of the package, the unsealed areas along the longitudinal edge and the lateral edge of the package are inherently capable to form an opening tab.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kozlow (4,264,008). Kozlow discloses a package enclosing a single disposable absorbent article (13) comprising a first piece of material (19) and a second piece of material (20) being operatively associated with the first piece of material to enclose the absorbent article. The operative association defining a seal (21) and at least a portion of the first piece of material and at least a portion of the second piece of material (23) extend beyond the seal to define an opening element.

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4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Laipply (4,696,393). Laipply discloses a package enclosing a single disposable absorbent article (91) comprising a first piece of material (92) and a second piece of material (97) being operatively associated with the first piece of material to enclose the absorbent article. The operative association defining a seal and at least a portion of the first piece of material and at least a portion of the second piece of material (92a, 97a) extend beyond the seal to define an opening element (Figures 18).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trewella (3,652,006) in view of Frank-Farah et al. (6,640,976; hereinafter Frank-Farah'976). Trewella discloses the package (10) enclosing the single disposable absorbent article as above having all the limitations of the claim except for the opening element being coded such as color coded to indicate the size or type of the article. Frank-Farah'976 shows a package (10) for articles comprising color coded on the articles and instructions (34, column 5, lines 1-7). It would have been obvious to one having ordinary skill in the art in view of Frank-Farah'976 to modify the package of Trewella so the opening element includes coded to indicate the size or type of the article to provide more convenience for the user.

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7. Claims 10-14 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trewella (3,652,006) in view of Benoit (4,597,494) or Hahn et al. (4,801,005; hereinafter Hahn'005). Nissen et al. (3,679,094; hereinafter Nissen'094). Trewella discloses the package (10) enclosing the single disposable absorbent article in a folded configuration as above and in Figure 1 having all the limitations of the claim except for the absorbent article comprises a ratio in a folded configuration to an unfolded configuration of less than 0.14.

Benoit shows a folded bag (110) comprising a ratio in a folded configuration to an unfolded configuration appears of less than 0.14. Hahn'005 shows a package (5) for holding a mat (1) and the mat having an absorbent top surface (3, 4) which is considered equivalent to the disposable absorbent article as claimed. The mat has a ratio of a folded configuration to an unfolded configuration of less than 0.14 and the mat disposed within the package to facilitate storage and/or transportation due to a compact package.

It would have been obvious to one having ordinary skill in the art in view of Benoit or Hahn'005 to modify the package of Trewella the package is used to carry an absorbent article which has a ratio of the folded configuration to the unfolded configuration of less than 0.14 to provide a compact package to facilitate storage and/or transportation.

Conclusion

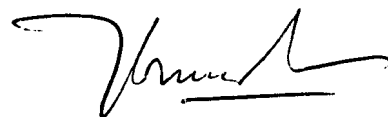
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lkb
May 8, 2007



Luan K. Bui
Primary Examiner
Art Unit 3728